

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JOHN ANGELICI,

Petitioner,

v.

Case No. 22-CV-1289

JASON BENZEL,

Respondent.

ORDER GRANTING MOTION TO VOLUNTARILY DISMISS HABEAS PETITION

John Angelici, who is currently incarcerated at the Dodge Correctional Institution, seeks a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Docket # 1.) Angelici challenges his conviction of first-degree sexual assault of a child under age 12 and repeated sexual assault of a child. (*Id.* at 2.) He asserts that the prosecutor improperly bolstered a key witness-victim's credibility based on his religious beliefs denying Angelici a fair trial and that his trial counsel was ineffective when he failed to object to the prosecutor's statements in violation of the Sixth Amendment. (Docket # 3 at 2.) The respondent filed an answer to Angelici's petition on January 20, 2023. (Docket # 6.)

Angelici, through counsel, now moves to voluntarily dismiss his habeas petition. (Docket # 14.) Angelici informed counsel that he no longer wishes to pursue this matter and wants this case to be dismissed. (*Id.*) Angelici was informed by counsel and understands that if the case is dismissed, he will not later be able to revive the two claims he raised in his petition. (*Id.*)

The rules governing habeas corpus proceedings do not include a rule pertaining to voluntary dismissals of habeas corpus petitions. Therefore, under Rule 12 of the Rules Governing § 2254 cases, I will apply Fed. R. Civ. P. 41(a)(2), which provides that an action may be dismissed at the plaintiff's request by court order, on terms that the court considers proper. Given Angelici's representation that he no longer wishes to pursue his habeas petition, I will permit Angelici to voluntarily dismiss this action pursuant to Rule 41(a)(2).

NOW, THEREFORE, IT IS ORDERED that petitioner's motion to voluntarily dismiss his habeas petition is granted and this action is dismissed.

Dated at Milwaukee, Wisconsin this 8th day of November, 2023.

BY THE COURT

A handwritten signature in black ink, reading "Nancy Joseph". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

NANCY JOSEPH
United States Magistrate Judge